

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

United States of America

v.

CHRISTIAN FIGALLO, and
KENYATTA TAISTE,

Defendants.

Protective Order

18 Cr. 684 (VM)

Upon the application of the United States of America, with the consent of the undersigned counsel, and the defendants having requested discovery under Fed. R. Crim. P. 16(a)(1)(E), the Court hereby finds and orders as follows:

1. **Disclosure Material.** The Government will make disclosure to the defendant of documents, objects, and information, including electronically stored information ("ESI"), pursuant to Federal Rule of Criminal Procedure 16, 18 U.S.C. § 3500, and the Government's general obligation to produce exculpatory and impeachment material in criminal cases, all of which will be referred to herein as "disclosure material." The Government's disclosure material may include material that (i) affects the privacy, confidentiality, and business interests of individuals and entities; and (ii) is not authorized to be disclosed to the public or disclosed beyond that which is necessary for the defense of this criminal case.

2. **Sensitive Disclosure Material.** Discovery materials which contain and/or reflect personal identification information of co-defendants and other third parties (including, but not limited to names, dates of birth, Social Security numbers, passwords, and bank account numbers) produced by the Government in this action pursuant to its discovery obligations are deemed "sensitive disclosure material," and will be labeled as such in the index produced with the discovery materials.

3. Facilitation of Discovery. The entry of a protective order in this case will permit the Government to produce expeditiously the sensitive disclosure material without further litigation or the need for redaction. It will also afford the defense prompt access to those materials, in unredacted form, which will facilitate the preparation of the defense.

4. Good Cause. There is good cause for entry of the protective order set forth herein.

ACCORDINGLY, it is hereby Ordered:

1. Sensitive disclosure material shall not be disclosed by the defendants or defense counsel, including any successor counsel ("the defense"), other than as set forth herein, and shall be used by the defense solely for purposes of defending this action. Sensitive disclosure information shall be maintained in a safe and secure manner solely by defense counsel. The defense shall not post any sensitive disclosure material on any Internet site or network site to which persons other than the parties hereto have access, and shall not disclose any sensitive disclosure material to the media or any third party except as set forth below.

2. Sensitive disclosure material may be disclosed by counsel to:

(a) the defendants for review at the offices of defense counsel, or in the presence of defense counsel, for purposes related to this case. The defendants shall not maintain, retain, or keep copies of any records containing sensitive disclosure material outside of the offices of defense counsel. The defendants shall not make or retain any notes that include any sensitive disclosure material outside the offices of defense counsel.

(b) the following persons (hereinafter "Designated Persons"):

(i) investigative, secretarial, clerical, paralegal, and student personnel employed full-time or part-time by the defendants' attorneys;

- (ii) independent expert witnesses, investigators, or advisors retained by the defendants' attorneys in connection with this action;
- (iii) such other persons as hereafter may be authorized by the Court upon such motion by the defendant; and

3. The defendants and defense counsel shall provide a copy of this Order to Designated Persons to whom they disclose sensitive disclosure material pursuant to paragraphs 6(b)(i), (ii), and (iii). Designated Persons shall be subject to the terms of this Order.

4. The Government may authorize, in writing, disclosure of sensitive disclosure material beyond that otherwise permitted by this Order without further Order of this Court.

5. This Order does not prevent the disclosure of any sensitive disclosure material in any hearing or trial held in this action, or to any judge or magistrate judge, for purposes of this action. However, sensitive disclosure material pertinent to any motion before the Court should initially be filed under seal, absent consent of the Government or Order of the Court. All filings should comply with the privacy protection provisions of Fed. R. Crim. P. 49.1.

Return or Destruction of Sensitive Disclosure Material

6. Except for sensitive disclosure material that has been made part of the record of this case, the defense shall return to the Government or securely destroy or delete all sensitive disclosure material, within 30 days of the expiration of the period for direct appeal from any verdict in the above-captioned case; the period of direct appeal from any order dismissing any of the charges in the above-captioned case; or the granting of any motion made on behalf of the Government dismissing any charges in the above-captioned case, whichever date is later.

Retention of Jurisdiction

7. The provisions of this Order shall not terminate at the conclusion of this criminal prosecution and the Court will retain jurisdiction to enforce this Order until the Court orders otherwise.

8. This Order may be signed in counterparts and transmitted by facsimile and/or electronic copy, each of which counterparts will be deemed to be an original and which taken together will constitute the Order.

AGREED AND CONSENTED TO:

GEOFFREY S. BERMAN
United States Attorney

by: Jessica Greenwood
Jessica Greenwood
Assistant United States Attorney

Date: November 16, 2018

David J. Cohen, Esq.
Counsel for Christian Figallo


Date: _____

Zachary Margulis-Ohnuma, Esq.
Counsel for Kenyatta Taiste

Date: _____

SO ORDERED:

Dated: New York, New York
November 26, 2018


THE HONORABLE VICTOR MARRERO
UNITED STATES DISTRICT JUDGE

Retention of Jurisdiction

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AGREED AND CONSENTED TO:

GEOFFREY S. BERMAN
United States Attorney

by: Jessica Greenwood
Jessica Greenwood
Assistant United States Attorney

Date: November 16, 2018

David J. Cohen, Esq.
David J. Cohen, Esq.
Counsel for Christian Figallo

Date: _____

Zachary Margulis-Ohnuma, Esq.
Zachary Margulis-Ohnuma, Esq.
Counsel for Kenya Taiste

Date: 11/16/18

SO ORDERED:

Dated: New York, New York
November 16, 2018

THE HONORABLE VICTOR MARRERO
UNITED STATES DISTRICT JUDGE

Retention of Jurisdiction

7. The provisions of this Order shall not terminate at the conclusion of this criminal prosecution and the Court will retain jurisdiction to enforce this Order until the Court orders otherwise.

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AGREED AND CONSENTED TO:

GEOFFREY S. BERMAN
United States Attorney

by: Jessica Greenwood
Jessica Greenwood
Assistant United States Attorney

Date: November 16, 2018

David J. Cohen
David J. Cohen, Esq.
Counsel for Christian Figallo

Date: November 19, 2018

Zachary Margulis-Ohnuma, Esq.
Zachary Margulis-Ohnuma, Esq.
Counsel for Kenyatta Taiste

Date: _____

SO ORDERED:

Dated: New York, New York
November 20, 2018

[Signature]
THE HONORABLE VICTOR MARRERO
UNITED STATES DISTRICT JUDGE

EXHIBIT A



U.S. Department of Justice

*United States Attorney
Southern District of New York*

*The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007*

November 20, 2018

BY FAX

The Honorable Victor Marrero
United States District Judge
Southern District of New York
500 Pearl Street
New York, New York 10007
Fax: (212) 805-6382

Re: United States v. Christian Figallo and Kenyatta Taiste
18 Cr. 684 (VM)

Dear Judge Marrero:

In connection with the production of discovery in this case, the Government respectfully submits the proposed protective order attached hereto as Exhibit A, which has been signed by counsel for both defendants.

Respectfully submitted,

GEOFFREY S. BERMAN
United States Attorney for the
Southern District of New York

By: Jessica Greenwood
Jessica Greenwood
Assistant United States Attorney
(212) 637-1090

cc: All counsel of record (by email)